

**Memorandum of Understanding
between the
Federal Transit Administration
and the Charlotte Area Transit System
on
Addressing FTA's New Starts and NEPA Requirements for
Charlotte's 2025 Transit System Plan**

I. Purpose

The Charlotte Area Transit System (CATS) and the Federal Transit Administration (FTA) have cooperatively developed this Memorandum of Understanding (MOU) to document their mutual understanding of the procedures to be followed in evaluating and refining Charlotte's 2025 Transit System Plan through the National Environmental Policy Act (NEPA), FTA New Starts and MPO planning processes. Because the 2025 Transit System Plan's implementation could extend over 20 years, this MOU documents the current understanding of the process for current and future participants. Both CATS and FTA understand that the MOU may be updated to reflect legislative or regulatory changes, regional or project specific changes, or changing financial conditions or plans, in addition to other reasons.

II. Background

In November 2002, Charlotte's Metropolitan Transit Commission (MTC) adopted a 2025 Transit System Plan that included an implementation plan and a financial plan. The 2025 Transit System Plan includes a multimodal package of improvements and includes fixed guideway transit (light rail, commuter rail, bus rapid transit, and streetcar) for five corridors and the Center City¹. The System Plan was developed through completion of Major Investment Studies for each corridor, which included a combination of corridor and regional analyses of alternative transit modes and general alignments. The MISs involved extensive public participation and community involvement efforts. The MISs resulted in Locally Preferred Alternatives (LPAs) for each corridor, which were included in a System Plan that covers the CATS proposed phasing of transit improvements and CATS funding plans for both capital and operational costs. Mecklenburg-Union Metropolitan Planning Organization (MUMPO), the MPO for metropolitan Charlotte, has adopted the System Plan, including the LPAs, into its financially constrained transportation plan for the Charlotte area.

¹ CATS has completed preliminary engineering on the South Corridor Light Rail Transit (LRT) line and the project is in Final Design. This MOU applies to the remaining portions of the planned fixed guideway system – the North, Northeast, Southeast, and West Corridors, plus Center City improvements.

The CATS financial plan anticipates that funding for 25 percent of the fixed guideway system capital cost will be derived from an existing local dedicated one-half percent sales tax. It further anticipates that funding for 25 percent of the capital cost will be met from state funds, and 50 percent will be provided from applicable federal sources, including Section 5309 New Starts funds.

This MOU outlines an approach that involves further evaluation and development of the proposed projects in the System Plan by meeting the FTA requirements for Alternatives Analysis, NEPA, and Preliminary Engineering.

III. Approach

CATS and the FTA will perform environmental evaluations in accordance with the regulations implementing NEPA at 40 CFR Parts 1500-1508 and 23 CFR Part 771 on the following elements of Charlotte's 2025 Transit System Plan for which New Starts funding will be sought:

- North Corridor Commuter Rail;
- Northeast Corridor LRT;
- Southeast Corridor Bus Rapid Transit (BRT) or LRT²;
- West Corridor Bus Rapid Transit (BRT) or LRT; and
- Center City/Central Avenue/Beatties Ford Road Streetcar.

The NEPA document in each corridor will cover the entire project that is included in MUMPO's regional transportation plan (i.e., from a logical terminus in downtown Charlotte to the outermost station or facility included in the MUMPO plan.) FTA will terminate the NEPA review of any project whose Federal funding is no longer reasonably anticipated.

Upon completion of the public review of one or more of the Draft Environmental Impact Statements (DEISs), CATS will consider the evaluations in the completed DEISs and the public and interagency comments on those completed DEISs and will identify projects for which CATS will request FTA approval to begin PE and gain entry into the New Starts funding pipeline. The public review of the DEIS must be completed before FTA will consider a request to initiate PE that involves an alternative or operable segment of an alternative evaluated in that DEIS.

CATS and FTA agree that, in each of the corridors, the NEPA document may incorporate by reference the MIS analyses that support the elimination of alternatives other than the adopted element of the 2025 Transit System Plan. The alternatives evaluated in each NEPA document will include the No-Build alternative, a TSM alternative, and the LPA from the System Plan. LPA design options developed to avoid and mitigate adverse environmental and community impacts will also be evaluated. CATS will develop the proposed phasing of the projects to ensure that meritorious, cost-

² Because Southeast Corridor rapid transit improvements may be developed as a joint project with highway improvements along Independence Boulevard, possibly involving Federal Highway Administration (FHWA) funding, there could be joint sponsorship of the environmental document in this corridor.

effective, and operable segments result at each phase. In addition, CATS will develop a TSM alternative for each corridor, and submit each TSM to FTA for approval of its use as the New Starts Baseline alternative in the computation of the FTA New Starts criteria. The TSM alternatives will be fully evaluated in the DEISs.

Following circulation of one or more of the DEISs and consideration of comments received, CATS can reach decisions on the phasing and prioritization of the various elements and operable segments of the Transit System Plan covered in the DEISs. CATS will seek FTA approval to initiate PE on an early implementation phase (EIP) of the System Plan in accordance with 49 CFR Part 611. FTA will require, among other things, that MUMPO affirm the inclusion of the EIP in the regional transportation plan. When requesting approval to enter PE, CATS is free to package together various operable segments of the planned guideways from multiple corridors into a single EIP for PE approval. However, every logically independent, operable segment of the EIP must be evaluated separately against the New Starts criteria of 49 CFR Part 611. Therefore, CATS will submit the New Starts criteria described in 49 CFR Part 611 on each individual element of the EIP. Notwithstanding the packaging by CATS, FTA reserves the right to approve all, some, or none of the operable segments into PE. In deciding which segments should be approved into PE, FTA will consider: (1) the performance of the individual operable segment in question against the New Starts criteria and (2) the Section 5309 total cost of the candidate for PE approval that would result from inclusion of the segment in question.

If and when FTA authorizes PE to be initiated for one or more projects, CATS will perform PE on the approved projects or project elements. CATS and FTA will complete the Final Environmental Impact Statements (FEISs) that encompass the project(s) approved into PE. In cases where the operable segment approved for PE is only a portion of the corridor element in the MUMPO transportation plan, the FEISs will cover the alternatives over the entire corridor and related cumulative impacts and mitigation in accordance with NEPA regulations. However, for the portion of the corridor not included in the operable segment approved into PE, the engineering activities will be strictly limited to those activities necessary to complete the FEIS.

As a consequence, following the approval of each FEIS, CATS will be in a position to:

- Request an environmental Record of Decision (ROD) and seek approval to enter Final Design on those parts of the System Plan that were previously approved for PE, and
- Request a ROD and proceed with right-of-way acquisition and other land use actions to preserve and develop the remainder of each corridor. CATS is aware that the ROD itself carries with it pre-award authority for the acquisition of real property that is specifically identified in the FEIS as needed for the alternative selected in the ROD. Compliance with the Uniform Relocation and Real Property Acquisition Policies Act is expected.

When Final Design approval is requested, every logically independent, operable segment of the candidate for Final Design must be evaluated separately against the New Starts criteria of 49 CFR Part 611. Notwithstanding the packaging by CATS, FTA reserves the right to approve all, some, or none of the operable segments into Final Design.

If any of the corridors lacks an element approved into PE, the environmental process may be brought to closure by circulating the FEIS as a Tier 1 document in accordance with 23 CFR 771.111(g) and 40 CFR 1502.20 and 1508.28. However, if at any time the Federal funding for the project is no longer reasonably anticipated, FTA will terminate the NEPA review.

IV. Implementation

CATS and FTA will assume their usual roles in the preparation of the NEPA documents.

CATS understands that the pre-award authority to acquire real property that accompanies FTA's issuance of a ROD is not a commitment, is not an implied commitment, is not a moral commitment, and is not any other sort of commitment to reimburse CATS for any associated costs or to participate in any project on the acquired property. CATS will use its pre-award authority with discretion and with full knowledge of the risks.

CATS and FTA will add the review and discussion of the NEPA process for elements of the 2025 Transit System Plan to the agenda of the CATS/FTA Quarterly Meeting already in place for the South Corridor LRT project. CATS will provide special briefings on System Plan implementation to FTA staff as needed.

V. Amendment


During the implementation of the 2025 Transit System Plan, the MOU may need to be updated to reflect legislative or regulatory changes, regional or project specific changes, or changing financial conditions or plans, in addition to other reasons. The MOU may be updated or modified upon mutual agreement of the FTA and the CATS.

FEDERAL TRANSIT ADMINISTRATION


Hiram J. Walker
FTA Regional Administrator

Date: 6/22/04

CHA LOTTE AREA TRANSIT SYSTEM


Ronald J. Tober
Chief Executive Officer, Charlotte Area Transit System
Director of Public Transit, City of Charlotte

Date: 6/22/04